

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action
)	No. 13-10200-GAO
)	
DZHOKHAR A. TSARNAEV, also)	
known as Jahar Tsarni,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE

EXCERPT OF JURY TRIAL - DAY FORTY-SEVEN

OPENING STATEMENT OF NADINE PELLEGRINI

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts 02210
Tuesday, April 21, 2015
10:34 a.m.

Marcia G. Patrisso, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

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On Behalf of the Defendant

P R O C E E D I N G S

MS. PELLEGRINI: Good morning.

THE JURORS: Good morning.

MS. PELLEGRINI: Unbearable, indescribable, inexcusable and senseless. All of those words have been used to describe the murders committed by Dzhokhar Tsarnaev. Yes, the deaths of Krystle Campbell, of Lingzi Lu, of Martin Richard and of Officer Sean Collier have been all of those things for their families and for their friends.

But don't let those descriptions make you think that you'll never really understand what Dzhokhar Tsarnaev did to those victims and don't think that you won't know the full impact of his crimes, or that you won't be able to comprehend what those murders did to their families, their friends and their colleagues. You will know the story of those four families.

The deaths committed by Dzhokhar Tsarnaev were deliberate, intentional and cruel. You know how Krystle, Lingzi, Martin and Sean died. Now you need to know how they lived. You need to know and understand why their lives mattered. You will begin to know Krystle Campbell and understand what it meant to lose the young woman that her father, Bill Campbell, nicknamed "Princess." You'll hear more about Lingzi, and you will understand what it meant to lose the young woman that her father, Jun Lu, remembered as a jolly

1 girl.

2 You'll see Martin Richard who so resembles his dad,
3 and see him in photos that will remind you of what an
4 eight-year-old boy's life is like. Should be like. And you
5 will know Sean Collier, the officer who inspired these words
6 spoken to those who mourned him: "Live long, like he would.
7 Big hearts, big smiles, big service. All love."

8 These young women, this young man and this little boy,
9 all of them were loved and they loved in return. This is how
10 we should know them, because they weren't always just the
11 victims of Dzhokhar Tsarnaev. Before he murdered them in some
12 of the cruellest ways imaginable, they were sons, they were
13 daughters, they were grandchildren, they were brothers and they
14 were sisters. And all of them had rich and fulfilling lives
15 even at their young age.

16 But now these beautiful faces are memories and
17 memorials. They're symbols, even, of loss, when all their
18 families would want is to have them back one more time to be
19 their son, their daughter, their best friend. When all they
20 want is to have them come home one more time. For Lingzi, that
21 would mean home to China, as she's pictured here, so that her
22 parents could tell her that they kept their promise, they kept
23 her beloved music collection safe when she left China to travel
24 halfway around the world to come to Boston to study.

25 One more time just to see them laugh and joke, like

1 Krystle here celebrating after a wedding that she had
2 successfully planned and pulled off on Spectacle Island. Just
3 to watch them smile proudly, like Sean here at a family
4 wedding. And just to see Martin decked out in green beads one
5 more time for one more St. Patrick's Day.

6 Their families had every right to expect they would
7 live out their lives and realize the potential of these young
8 lives, but Dzhokhar Tsarnaev took them all away, in the most
9 painful and brutal ways possible. They were all beautiful, and
10 they're all now gone.

11 And there are others who, while they survived, found
12 their lives dramatically, irrevocably changed in an instant by
13 Dzhokhar Tsarnaev: Jessica Kensky, Roseann Sdoia, Karen
14 McWatters, Jeff Bauman, Rebekah Gregory. They're just a few of
15 the victim survivors. Roseann, Karen and Rebekah each suffered
16 the amputation of one leg; Jessica and Jeff have now lost both
17 legs. You heard and you saw what they went through, what they
18 suffered through and the terrible injuries inflicted by
19 Dzhokhar Tsarnaev.

20 And, yes, when they testified, they were brave, they
21 were resilient and they were open. They faced you, as they
22 still face life, with great humor and good grace. But now you
23 need to know the full story of all of them, of all of the
24 survivors. You need to know how close they came to death as a
25 result of the actions of Dzhokhar Tsarnaev; how close they came

1 and others came, and how close others still might be.

2 The question of guilt has been answered, and the
3 question of sentence remains. You have heard testimony and
4 you've seen photos and videos; you've heard the graphic
5 descriptions and the wrenching testimony of the victims and the
6 witnesses. You needed to know all of that evidence because you
7 needed to know what happened on Boylston Street, in Cambridge
8 and in Watertown.

9 The verdicts don't supply you the answer to the next
10 question that you must answer, but the evidence will assist
11 you. And you could consider everything that you have heard in
12 the guilt phase and everything that you are about to hear in
13 this phase; you'll just look at it in a slightly different way.
14 Because now all of the evidence and all of the information will
15 help to assist you in answering one more question. And we
16 phrase the question as this: Why? Why? After weighing all of
17 the aggravating factors and mitigating factors, why is the
18 death penalty the appropriate and just sentence for Dzhokhar
19 Tsarnaev?

20 The answer, we suggest, will be found in the entire
21 sum of Dzhokhar Tsarnaev's own character and his own actions.
22 Every gateway factor that the Court mentioned and every
23 aggravating factor will be proven to you beyond a reasonable
24 doubt. Why is the death penalty the appropriate and just
25 sentence? Because Dzhokhar Tsarnaev planned and he plotted to

1 kill. Because when Dzhokhar Tsarnaev sauntered down Boylston
2 Street and took a pressure cooker bomb into the crowds, he
3 created a grave risk of death for every person within a radius
4 of that bomb. And later he created that same risk for every
5 officer and every person in the radius of the bombs that he
6 threw down Laurel Street, and every officer in the range of the
7 car that he gunned down Laurel Street.

8 Why? Because Dzhokhar Tsarnaev created grave risk of
9 death for every single one of the 17 victims who had to undergo
10 amputations, many undergoing multiple operations, some
11 undergoing multiple amputations, all of them being put at risk
12 and some still, I'd suggest.

13 Because in the course of four days he took the lives
14 of these four young, beautiful people. Three died on the
15 streets of Boston, killed by pressure cooker bombs that
16 exploded with such lethal force that pieces of them were
17 embedded in the concrete buildings across the street. Dzhokhar
18 Tsarnaev murdered each one of them in a way that they had time
19 to feel pain, they had time to be scared and frightened, but
20 they had no time to say good-bye. And that is the very essence
21 of terror.

22 Why? Because Dzhokhar Tsarnaev executed a police
23 officer targeted simply because he was an officer and Dzhokhar
24 Tsarnaev wanted his gun, an officer who sat in his cruiser on
25 that quiet Cambridge campus and died after he was shot between

1 the eyes.

2 The ultimate question requires you to make a
3 determination, but as the Court just instructed you, you cannot
4 make that final determination until you have made certain
5 gateway findings. So let's look at what you already know and
6 what you will know.

7 Dzhokhar Tsarnaev was 19 and a half years old when he
8 walked down Boylston Street, just three months shy of his 20th
9 birthday. He carried a backpack stuffed with a heavy took time
10 to build pressure cooker, itself lined with nails and BBs that
11 would become embedded in the bodies of his victims. He carried
12 a weapon of mass destruction; not simply a random and quick
13 means, an opportunity to commit a crime. It took time to build
14 the bombs. It took time and planning to get Dzhokhar Tsarnaev
15 and the bombs into his hands. It took planning and it took
16 coordination to get him and the bombs to Boylston Street. And
17 quite obviously, his detonation of the bomb seconds after the
18 first blast was carefully coordinated and calculated. You saw
19 the images of Dzhokhar Tsarnaev on his phone at the Forum site.
20 You saw the phone records.

21 As Dzhokhar Tsarnaev walked with his partner, his
22 coconspirator, his brother, he could see what the Boston
23 Marathon represented in those few blocks, and how could he not
24 see or know the vulnerability of each and every one of those
25 spectators? There he is, a 26.2-mile road race that culminates

1 in the heart of Boston, surrounded -- the course surrounded by
2 well-wishers, celebrants, avid fans and casual observers. The
3 finish line just ahead beckoning thousands of runners. And
4 people stood cheering and ringing bells and clapping and
5 laughing.

6 And after Tamerlan Tsarnaev walked toward the finish
7 line, Dzhokhar Tsarnaev stood alone at the site of the Forum.
8 He stood alone, but he was in a crowd. His lethal bomb at his
9 feet represented a grave risk of death and, of course, death
10 for those who died. He stood, he looked, he called his brother
11 and he acted.

12 After both bombs exploded, three people lay dying, and
13 many people were so badly injured that their limbs were already
14 amputated or shortly would be. And among the deceased was a
15 small eight-year-old boy. Three days later Dzhokhar Tsarnaev
16 shot and killed a police officer. After the carjacking that
17 followed that murder, he tried to murder police officers in
18 Watertown. He threw bombs, and he was the one who drove the
19 car directly at those same officers. Four deaths in four days.

20 In just that short retelling, you already have
21 evidence of age: 18 years or older; intentional killing of
22 four victims, because every death was intended. There was no
23 mistake or accident about any one of these. And you have and
24 will have evidence of the following factors: the death of
25 individuals during the commission of other crimes; the grave

1 risk of death to people other than the victims; the heinous,
2 cruel and depraved method of committing these crimes;
3 substantial planning and premeditation; multiple killings and a
4 vulnerable victim.

5 You have that information, but there will be more.
6 Keep asking the question: Why is the death penalty the
7 appropriate and just sentence for Dzhokhar Tsarnaev? Because
8 the evidence has shown and will show that Dzhokhar Tsarnaev
9 deliberately selected a glorious and famous international
10 sporting event for its fame and for the vulnerability of its
11 spectators; because he twisted the marathon into something
12 cruel and ugly for his own purposes, and because he took the
13 marathon and turned it into a political statement to bring
14 attention to himself, to his own beliefs, and to others who
15 would share those beliefs.

16 But the horror and the death of the victims, that told
17 you what Dzhokhar Tsarnaev did and how he did it, but that
18 horror is now joined with the impact of the never-ending loss
19 upon the families of the victims. Only when all of those facts
20 come together will you know the full effect of Dzhokhar
21 Tsarnaev's acts upon the families left behind, and only then
22 can you carefully weigh the factor of victim impact.

23 Your sentencing decision will be a consideration of
24 Dzhokhar Tsarnaev's character and his actions, and it is not an
25 exercise in comparison. Each and every time you hear Tamerlan

1 Tsarnaev's name or any other person's name, you can ask
2 yourselves why. Why are you hearing that? Tamerlan Tsarnaev,
3 he's an easy target. Easy target while he lived, certainly an
4 easy target when he's dead. He's not a substitute for his
5 brother.

6 But it's much more than that. Because ask yourselves
7 if there's anything about Tamerlan Tsarnaev or any other person
8 that will explain to you how Dzhokhar Tsarnaev could take a
9 bomb, leave it behind a row of children, walk away, down the
10 street, and detonate it. Is there anything that will explain
11 how he could walk away from that happy and crowded scene, look
12 back over his shoulder, knowing that he just left death there
13 to go off, and he kept on going?

14 You may hear about family dynamics, family history,
15 family dysfunction. But many people -- millions of people, one
16 would venture -- face troubles throughout their lives. Who
17 among them murders a child with a bomb?

18 You may see photos of Dzhokhar Tsarnaev at family
19 gatherings, school events, dances, at camp, playing the drums.
20 That might tell you he had the advantages of a good education
21 at schools; that he led others, like those on his wrestling
22 team; that he was taken care of, and that he was educated.

23 But nothing will explain his cruelty and his
24 indifference. Nothing will, other than his own character. And
25 everything you know and will know about Dzhokhar Tsarnaev and

1 the crimes that he committed will reinforce he simply is
2 callous and indifferent to human life. These personal
3 characteristics are what set him apart, and it's his character
4 that makes the death penalty appropriate and just.

5 It's not that hate and callous indifference to human
6 life are anything new. Sadly, they're not. But neither are
7 the notions of jihad or radicalization. Those didn't start
8 with Dzhokhar Tsarnaev, and they certainly didn't start with
9 Tamerlan Tsarnaev, and it is tempting to look elsewhere when
10 one's beliefs and actions are so fundamentally different than
11 what you would expect from another human being.

12 So when Shakespeare wrote that "The fault, dear
13 Brutus, is not in our stars but in ourselves," he was reminding
14 us that we have to look inward. We have to look towards the
15 person in whom the fault lies. No alignment of the heavens
16 will explain or excuse Dzhokhar Tsarnaev.

17 The evidence presented and to be presented will show a
18 person whose cruel character can be found in the way that he
19 murdered and in his own reactions to those murders, his own
20 beliefs, and his own motivations. It's the lines that he was
21 so willing to cross that make him fundamentally different. And
22 it may have been hard to imagine that an individual would have
23 such feelings and then act upon them in such a way, but you no
24 longer have to imagine. You've seen it.

25 If you want to understand Dzhokhar Tsarnaev and what

1 he did, you don't have to look to the heavens for an answer.
2 You can look for the man who walked alone down Boylston Street,
3 knowing that his brother had taken up his own place at another
4 location. You can look for the man who stood alone behind the
5 Richard family for almost four minutes. You can look for the
6 man who then walked off alone, leaving behind a bomb that would
7 kill Lingzi and Martin; who, without his brother, got back to
8 the UMass Dartmouth campus and three days later came back.

9 Look for the man who alone got the gun that killed
10 Sean Collier; who alone went into the bank and used the debit
11 card of a terrified carjacking victim to get money; and who
12 drove alone down Laurel Street trying to mow down Watertown
13 police officers; who escaped alone; and who then, alone with
14 his own thoughts, wrote in his own words -- wrote and carved
15 his manifesto into the inside of that boat on Franklin Street,
16 declaring his beliefs and righteousness of his own actions.

17 All of that evidence, and that which will follow, will
18 tell you that Dzhokhar Tsarnaev was and is unrepentant,
19 uncaring, and untouched by the havoc and the sorrow that he has
20 created. Remember Dr. Levitt said a small number of people
21 cross the line into radicalization. But in reality, Dzhokhar
22 Tsarnaev was willing to cross every line for personal glory and
23 for reward. Kill innocents with a bomb: Done. Kill a police
24 officer: Done. Kill a child: Done. All of those lines were
25 crossed. They were erased. All those boundaries were

1 shattered. It was done by Dzhokhar Tsarnaev.

2 You've seen the milk-buying video. You've seen the
3 gym video. You've seen the Shell gas station video where he
4 shops for snacks less than two hours after Officer Collier had
5 been executed. And you know he was in Officer Collier's car.
6 And he shops while a terrified carjacking victim sits outside.

7 You've also seen the Bank of America video. And while
8 it hasn't received the attention of the others, it may be just
9 as telling. Dun Meng has been carjacked. He's been forced to
10 give up his car and his PIN number. You watch Dzhokhar
11 Tsarnaev as he enters that bank. He calmly examines the card
12 in his hand. During the course of the next three minutes, he
13 first punches in the number, and it's wrong. Does he panic?
14 Does he run outside and seek the assistance of his brother?
15 No. He calmly reenters that number. He gets into the account,
16 and he steals money. And then, as if he had all the time in
17 the world, he tries to get more money.

18 Dzhokhar Tsarnaev was as successful as only he and
19 *Inspire* magazine could have hoped. "Successful means," *Inspire*
20 magazine wrote, "are through explosive devices and sacrificing
21 souls." These -- these are the souls that he sacrificed.

22 You're considering Dzhokhar Tsarnaev's character. And
23 you're free to ask, does it really matter who came first in the
24 long line of radicalization? As I said, Dzhokhar Tsarnaev
25 wasn't the first to radicalize. Neither was Tamerlan. And

1 whether Dzhokhar Tsarnaev was radicalized by his brother, by
2 Anwar al-Awlaki, by some Internet lecture, by a song, or by a
3 terrorist-to-go magazine, the origin and the lineage of
4 terrorism don't matter. What matters are his beliefs in
5 terrorism, his actions of terror, and the consequences of his
6 actions upon others.

7 He believed, because terrorism sang to him, and then
8 he acted. He killed. Nothing was forced upon him. He simply
9 shared. He shared his belief in terrorism, and he shared it
10 with his brother and others.

11 These people, they were the enemy to Dzhokhar
12 Tsarnaev. He knew they were innocents. He even called them
13 that. But it didn't stop him from murdering them. Two young
14 women and a young man that won't ever reach the age of 30. And
15 a little boy who will never reach the third grade. This will
16 be their story. The impact that each of these young people had
17 in their lives and the impact of their death far exceeds the
18 scant number of years of life that they were given.

19 You know, some milestones in life are easy to spot,
20 easy to prepare yourself for: birthdays and anniversaries,
21 graduations. And then there are the little things: teaching
22 your child how to ride a bike, drive a car, taking him to
23 dancing lessons or watching him go off to the prom, going to
24 ball games with him or watching them play baseball, going to
25 visit the grandparents or just hiking a trail.

1 But it's the very smallest of details woven together
2 that make up a life, and that's where grief resides. It's
3 every minute of every day, grief and loss, and it is
4 inescapable. It's the laugh that no one will ever hear again.
5 It's the talented fingers that won't ever touch the keyboard
6 again. It's the selfies that won't be shared or laughed over.
7 It's the phone calls and texts that won't be sent or received.
8 It's even the little irritations of life. Who drives you crazy
9 when they leave their sports equipment in the hallway? Who
10 doesn't put away the laundry? Who ate the last piece of cake?

11 Things that make you laugh and make you cry at the
12 same time. And even in moments of happiness, sadness will
13 remain. And the thoughts of the future will bring no peace.
14 Every time someone thinks, Oh, he really would have enjoyed
15 that game. Or, Look at that, she would have looked great in
16 that dress. Or, Remember that grandpa was so proud of him? It
17 will come with a wrenching ache.

18 All of this loss is senseless, and it will remain so
19 because there's no sense to be made of it. And these deaths
20 are inexplicable because there are no explanations. And these
21 crimes are inexcusable because there should be no excuses.

22 The Boston-born poet and philosopher, Ralph Waldo
23 Emerson, wrote, "The only person you are destined to become is
24 the person you decide to be." Destiny: It's the sum of one's
25 decisions and actions and beliefs. It's as personal and

1 individual as a fingerprint. And for Dzhokhar Tsarnaev, his
2 decisions and his actions and his beliefs made up who he was
3 and who he is. His destiny was determined by him, and he was
4 determined and destined to be America's worst nightmare.

5 You can keep your hearts and minds open, and you'll
6 find a man whose heart was full of rage and whose mind was dead
7 set on the path that he took.

8 On July 10th, 2013, almost three months after Dzhokhar
9 Tsarnaev had murdered Krystle Marie Campbell, Lingzi Lu, Martin
10 Richard, and Officer Sean Collier, he was here in this
11 courthouse. He knew the United States had charged him for his
12 crimes. In the room that he was in, there was a video camera.
13 Dzhokhar Tsarnaev was alone. There was no brother with him.
14 And once more, just as he had done with the boat on Franklin
15 Street, he had one more message to send.

16 (Photograph displayed.)

17 MS. PELLEGRINI: This should be on the screens.

18 This is Dzhokhar Tsarnaev, unconcerned, unrepentant,
19 and unchanged. Without remorse, he remains untouched by the
20 grief and the loss that he caused. And without assistance, he
21 remains the unrepentant killer that he is. It is because of
22 who Dzhokhar Tsarnaev is that the United States will return and
23 ask you to find that the just and appropriate sentence for
24 Dzhokhar Tsarnaev is death.

25 Thank you.

C E R T I F I C A T E

I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev.

/s/ Marcia G. Patrisso
MARCIA G. PATRISSE, RMR, CRR
Official Court Reporter

Date: 4/21/15